

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

First Choice Benefits, a California)	CEASE AND DESIST ORDER
Corporation, d/b/a Choice Benefits,)	AND NOTICE OF
Choice Benefits, Douglas Herald,)	OPPORTUNITY FOR HEARING
Matt Ryan, and Thomas Paul,)	
)	CASE NO. CO-05-168
Respondents.)	

TO: First Choice Benefits, a California corporation, d/b/a Choice Benefits, Choice Benefits, Douglas Herald, Matt Ryan, and Thomas Paul

Commissioner of Insurance Jim Poolman, hereinafter “Commissioner”, has determined as follows:

1. N.D. Cent. Code § 26.1-01-03.1 authorizes the Commissioner to issue an Order to cease and desist when it appears that any person or business entity is engaged in an act or practice which violates or may lead to a violation of Title 26.1 of the North Dakota Century Code.
2. N.D. Cent. Code Chapter § 26.1-53 governs the marketing of discount medical plans in North Dakota.
3. On August 3, 2005, Choice Benefits sent by fax an advertisement for a discount medical plan to (701) 328-4880, a North Dakota telephone number. A true and correct copy of the advertisement that was faxed is attached hereto as Exhibit 1.
4. The faxed advertisement sent to (701) 328-4880 was an unsolicited advertisement.
5. The advertisement uses the term “guaranteed issue” in a manner that could reasonably mislead a person into believing the discount medical plan is insurance which is prohibited by N.D.

Cent. Code § 26.1-53-02(2).

6. The advertisement does not contain the disclosures required by N.D. Cent. Code § 26.1-53-03(1) including, but not limited to, the following disclosures: (1) that the plan is not an insurance policy; (2) that the plan member is obligated to pay for all health care services but will receive a discount from those health care providers that have contracted with the discount medical plan organization; (3) the name, address, and telephone number of the discount medical plan organization and the marketer; and (4) the cancellation and refund rights provided under N.D. Cent. Code § 26.1-53-08.

7. Choice Benefits' advertisement violates the provisions of N.D. Cent. Code §§ 26.1-53-02(2) and 26.1-53-03.

8. When calling 1-866-312-3242, the response number contained in the advertisement, the telephone is answered by a system or individual that identifies the answering number as Choice Benefits.

9. Persons answering 1-866-312-3242 indicate that Choice Benefits' address is P.O. Box 2272 or P.O. Box 2722, Houston, Texas 77001 and that Choice Benefits' website is www.pposavingsplan.com.

10. Douglas Herald is the registrant of the domain name www.pposavingsplan.com and his address is P.O. Box 2722 Houston, Texas 77001.

11. Douglas Herald is doing business as Choice Benefits or acting as its agent.

12. Matt Ryan is an owner and principal officer of First Choice Benefits.

13. Matt Ryan has represented that First Choice Benefits is a California corporation doing business as Choice Benefits.

14. Matt Ryan has represented that Thomas Paul is an owner and officer of First Choice

Benefits.

15. First Choice Benefits, Inc., is a dissolved California corporation according to the records of the California Secretary of State.

16. Matt Ryan has represented that the address of Choice Benefits is 1055 F Street, San Diego, California.

17. Matt Ryan has represented that www.pposavingsplan.com is the website of First Choice Benefits doing business as Choice Benefits.

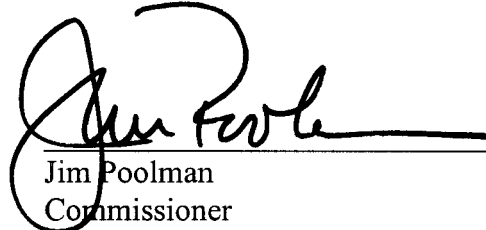
NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to N.D. Cent. Code § 26.1-01-03.1 that the Respondents shall immediately **CEASE AND DESIST** using the advertisement attached hereto in marketing, promoting, selling or distributing any discount medical plan in the State of North Dakota and from marketing, promoting, selling or distributing any discount medical plan in the State of North Dakota in violation of the provisions of Chapter 26.1-53 of the North Dakota Century Code.

NOTICE OF OPPORTUNITY FOR HEARING

Any party aggrieved by the Commissioner's order may make written application for a hearing on the order within 30 days of the date of the order. The application for a hearing must briefly state the respects in which the applicant is aggrieved by the order and the grounds for relief to be relied upon at the hearing. A hearing must be held not later than 10 days after an application for hearing is received unless a delay is requested by all persons named in the order. The Commissioner, within 30 days after the hearing, shall issue an order vacating the Cease and Desist Order or making the Cease and Desist Order permanent, as the facts require. The failure of any named person to appear at any proper hearing under this section after receiving notice of the hearing will cause that person to be in default and the allegations contained in the Cease and Desist Order may be deemed to be true and

may be used against the person at the hearing. If no hearing is requested by written application, the Commissioner's Order becomes permanent.

DATED this 21st day of September, 2005.

A handwritten signature in black ink, appearing to read "Jim Poolman", is written over a horizontal line.

Jim Poolman
Commissioner
N.D. Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505
(701) 328-2440

Quality Health Care You Can Afford!

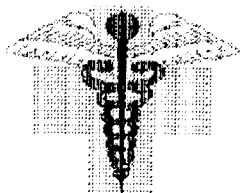
**SICKNESS & ACCIDENT,
MEDICAL, SURGICAL, DR. VISITS, \$20
CHIROPRACTIC VISITS, MATERNITY,
GREAT PRESCRIPTION PROGRAM,
and MUCH, MUCH MORE!**

As low as \$59.95 a Month!

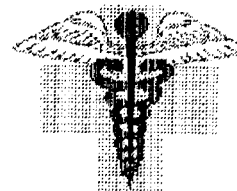
THIS PLAN INCLUDES A FREE DENTAL PLAN THIS WEEK ONLY!

GUARANTEED ISSUE, NO HEALTH QUESTIONS TO ANSWER

1-866-312-3242



**Offer ENDS This FRIDAY!
Call NOW For this PROMOTION!**



**If you have received this fax in error, please accept our apology, and call our toll free removal number
to be removed permanently. 1-866-526-9320**